

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS, INC.
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION

MDL No. 2325

Regina Gardner v. American Medical Systems, Inc. *2:13-cv-03748*

MEMORANDUM OPINION AND ORDER

Pending is a Motion to Dismiss Plaintiff Regina Gardner's Complaint with Prejudice for Failure to Comply with Pre-Trial Order # 267, filed by defendant American Medical Systems, Inc. ("AMS") on December 7, 2018. [ECF No. 13]. AMS cites to plaintiff's failure to timely serve a Plaintiff Fact Sheet ("PFS") in violation of AMS Pretrial Order # 267. Plaintiff has not responded to the motion. There are additional motions to dismiss and for summary judgment filed by AMS related to plaintiff's alleged failures to prosecute her case [ECF Nos. 16, 18], to which plaintiff has not responded.¹

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for failure to provide a PFS in compliance with the court's previous order.

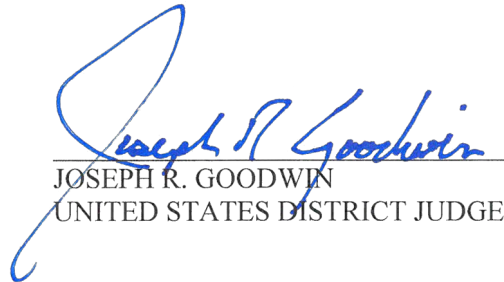
Therefore, the court **ORDERS** that the Motion to Dismiss filed by AMS [ECF No. 13] is **GRANTED in part** to the extent AMS seeks dismissal and **DENIED insofar**

¹ The court is aware of plaintiff's counsel's desire to withdraw as counsel. [ECF No. 10, 11].

as AMS seeks dismissal with prejudice. The court **ORDERS** that the case is dismissed without prejudice and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record.

ENTER: September 30, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE